



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

1200 Sixth Avenue
Seattle, Washington 98101

January 19, 2006

WAD 2302
1-19-06
5 f.

Reply To
Attn Of: AWT-121

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Bonnie Dunbar, President
Museum of Flight Foundation
9404 East Marginal Way South
Seattle, WA 98108-4097

Re: Rhone-Poulenc Inc. Marginal Way Facility
Resource Conservation and Recovery Act (RCRA) Administrative Order on Consent for
Corrective Action, Docket No. 1091-11-20-3008(h) (Order)
WAD 00928 2302



Dear Ms. Dunbar:

The U.S. Environmental Protection Agency (EPA) was pleased to learn that the Museum of Flight (Museum) is interested in expanding its operation onto the East Parcel of the former Rhone-Poulenc Facility (Facility), located at 9119 East Marginal Way South in Tukwila, Washington. This proposal is an excellent example of the type of projects that fulfill EPA's goal of facilitating the redevelopment of under-used property. This letter responds to a request from Anne DeVoe Lawler, counsel for the Museum, for a letter confirming that, if further work is necessary in the southwest corner of the parcel to address the remaining toluene in ground water, EPA will look to Container Properties and the other parties who previously owned or operated the Facility to complete that work. My response is provided solely for informational purposes, and is based on EPA's current knowledge of existing contamination at the site.

Investigation and cleanup of the Facility is being conducted under the Order by certain current and former property owners: Container Properties LLC, Rhodia Inc., and Bayer CropScience. These entities are collectively referred to as the Respondents. In addition to the Respondents, Monsanto and its successors have potential liability for the contamination at this property based on past ownership of the property. The current property owner, Container Properties, is redeveloping the property, and has subdivided the property into two separate parcels (the West Parcel and the East Parcel). Both parcels are subject to the cleanup requirements of the Order. Cleanup work on the West Parcel is being conducted on a separate timeline.

The Respondents completed an investigation of the East Parcel in June of 2006. This investigation confirmed that contaminants were present in the soils of some areas of the East Parcel. Contaminants detected included metals (arsenic, copper, and mercury), polychlorinated biphenyls (PCBs), carcinogenic polyaromatic hydrocarbons (cPAHs), and toluene. A small amount of toluene was also discovered in ground water in the southwestern corner of the East Parcel.

The Respondents conducted a voluntary removal action on the East Parcel in late summer, 2006. Approximately 5,000 cubic yards of soils containing contamination above cleanup levels set by EPA were excavated and removed. These cleanup levels are protective for unrestricted future use, including residential use. Confirmation sampling verified that all contaminated soils exceeding the cleanup levels were excavated and removed.

After the Respondents completed the removal action, the only contamination in the East Parcel that remains above the EPA cleanup levels is in a very small portion of the southwest corner of the facility where toluene is present in the ground water. During the removal action, the source of the toluene-contaminated ground water was removed and efforts were made to reduce the concentration of toluene contamination in the ground water there. The remaining toluene in ground water is expected to dissipate through natural processes.

After providing an opportunity for public comment, EPA issued its Final Decision for the East Parcel on December 20, 2006. In that Final Decision, EPA determined that no further cleanup actions were needed throughout most of the East Parcel. Such a determination is called a "Corrective Action Complete without Controls" determination and in this case that determination covered all portions of the East Parcel except the southwest corner where the residual toluene remains in ground water. The portion of the East Parcel which is excluded from this determination is shown on Figure 1 (enclosed).

A "Corrective Action Complete without Controls" determination means that EPA, under the authority of the Resource Conservation and Recovery Act, has determined that human health and ecological risks have been appropriately addressed and that cleanup is no longer needed at this site. This determination confirms that the property is considered suitable for any future use, and may be redeveloped and/or transferred without restrictions.


In its Final Decision for the East Parcel, EPA required a contingent remedy to address the residual toluene in ground water. Specifically, within six months of issuance of the Final Decision, the Respondents must submit either a demonstration that the concentration of toluene in ground water is below the final ground water cleanup level (1.0 mg/L), or a work plan for additional cleanup actions to address the toluene in the ground water. EPA anticipates that any toluene that may remain in the ground water at that time can be readily treated by air sparging or other conventional technologies. Based on information currently available to EPA, it appears that the concentration of residual toluene has been decreasing since the removal work was completed, as we expected.

EPA will issue a determination of "Corrective Action Complete without Controls" for the remaining portion of the East Parcel at such time as the Respondents submit data verifying that the concentration of toluene in ground water is below the final ground water cleanup level.

Finally, it may be helpful for you to know that the Order requires the Respondents to set aside \$3,500,000 to assure that sufficient funds are available to complete all necessary cleanup work at the property. The Respondents are currently in compliance with this provision of the Order. The primary purpose of this financial responsibility requirement of the Order is to assure that funds will be available if needed to conduct necessary cleanup work in the event, for example, that the Respondents are unable or fail to do so. So far, EPA has not had occasion to draw on the funds set aside for this site.

If you have questions or concerns regarding this information, please contact Christy Brown of my staff at (206) 553-8506, or your legal counsel may contact Jennifer MacDonald at (206) 553-8311 to discuss the matter further.

Sincerely,

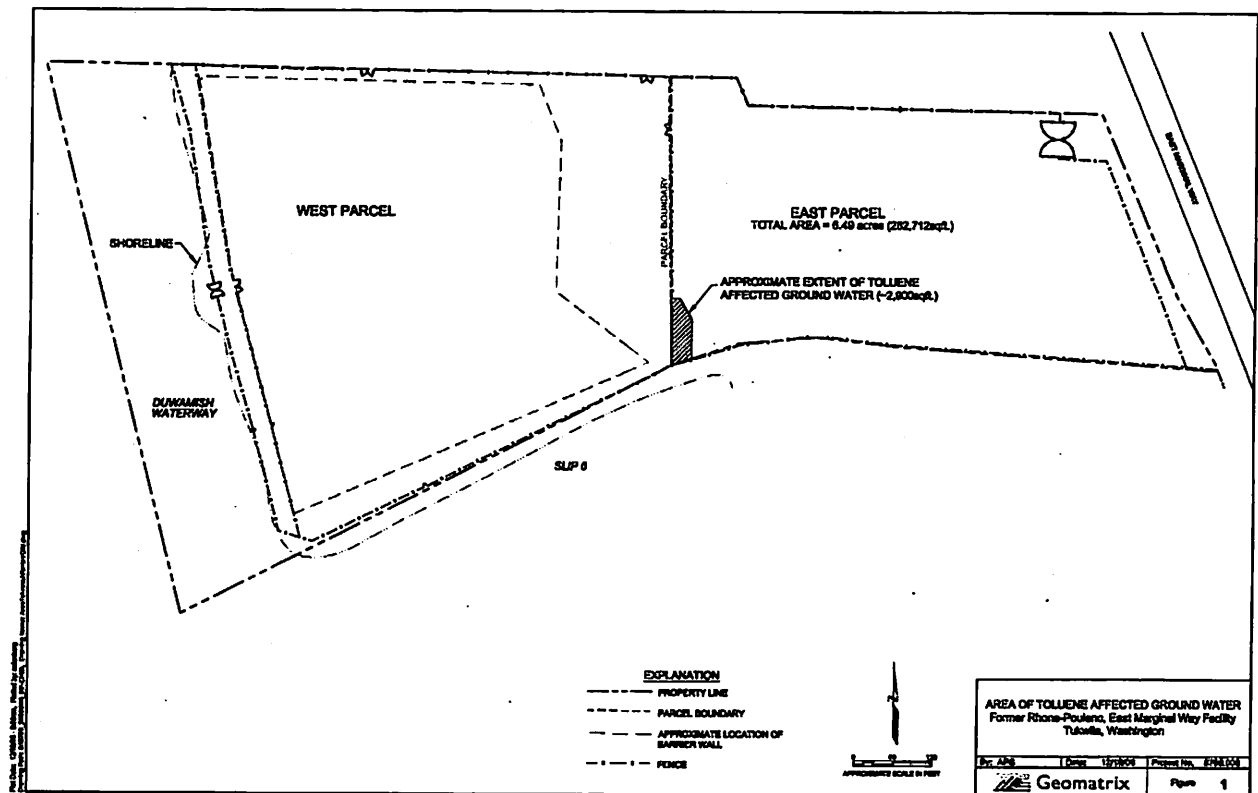
A handwritten signature in black ink, appearing to be 'R' followed by a long horizontal stroke.

Richard Albright, Director
Office of Air, Waste and Toxics

Enclosure

cc: Anne DeVoe Lawler, Jameson Babbitt Stites & Lombard PLLC

FIGURE 1: Area Excluded from Determination of "Corrective Action Complete without Controls"



Note: The portion of the East Parcel which is excluded from the Determination of "Corrective Action Complete without Controls" is the area designated as "Approximate Extent of Toluene Affected Ground Water" on this Figure.

bcc: J. MacDonald, ORC
 R. Fuentes, OEA
 K. Flint, ECL
 M. Bailey, OEA
 R. Dagseth, ETPA

CONCURRENCES:

INITIALS ES		see below			POLICY FILE		RCRIS INFO SUBMITTED	
NAME ES	BROWN	PEER REVIEW	OCE	for MACDONALD DC	YES	NO	YES	NO
DATE ES		see below		1/19			ATTACHED	

PEER REVIEW:

INITIAL S ES					SB	for CF
NAME ES	ORLEAN	HEDEEN	MEYER	PALUMBO	BLOCKER	FISHER
DATE ES					1/19	1/19

File Code:
 WA 2302
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